

ORDINANCE NUMBER O-19413 (New Series)

ADOPTED ON SEPTEMBER 19, 2005

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 4, ARTICLE 4, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 44.0307, BY RENUMBERING SECTION 44.0307.1 TO SECTION 44.0307(c), ALL PERTAINING TO HEALTH AND SANITATION; AMENDING CHAPTER 5, ARTICLE 5, DIVISION 1 BY AMENDING SECTION 55.0101; AMENDING CHAPTER 5, ARTICLE 5, BY REPEALING DIVISION 92, RELATING TO APPENDICES TO THE FIRE CODE; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 3, BY AMENDING SECTION 142.0360, PERTAINING TO FENCE REGULATIONS; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTIONS 142.0402; 142.0403 AND 142.0412; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 143.0310, ALL RELATING TO BRUSH MANAGEMENT REGULATIONS.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 4, Article 4, Division 3, of the San Diego Municipal Code is amended by amending Section 44.0307 and renumbering Section 44.0307.1 to Section 44.0307(c), to read as follows:

**§44.0307 Cattle, Goats and Sheep**

- (a) It is unlawful to bring or maintain, within a non-agricultural zone within the City, any cattle, bovine animals, goats, or sheep.
- (b) Section 44.0307(a) shall not apply to the following:
  - (1) Dairies or dairy farms licensed during the month of July 1953.
  - (2) Any goats brought in temporarily, to privately-owned non-agricultural zones for the purpose of performing brush

management in accordance with the Land Development Code section 142.0412, Brush Management, subject to the following requirements:

- (A) The goats shall be managed and monitored 24-hours a day by a person who has at least two years experience in the raising, handling, and controlling of goats, and who carries a minimum of \$1 million of liability insurance, to prevent escapes, harassment from predators or humans, or over-browsing.
- (B) The owner of the property to be browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal and all owners and residents with property located immediately adjacent to the area to be browsed by goats, at least 10 business days prior to beginning operation. This notice shall identify section 44.0307 as the authority for the temporary use of goats.
- (C) The owner of the property to be browsed by the goats shall obtain written permission from the owner of any property through which the goats must gain access to the area to be browsed by goats, at least 10 business days prior to beginning operation.

- (D) The area to be browsed by goats shall be measured, staked, and appropriately fenced with temporary electrically-charged fencing to delineate the brush management areas required under the Land Development Code section 142.0412, Brush Management. Signs must be posted at 25-foot intervals along the fence warning the possibility of mild electric shock.
- (E) When browsing, no more than 75 goats are permitted on any single acre of the *premises*.
- (F) When browsing, the goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced, in accordance with the Land Development Code section 142.0412, Brush Management.
- (G) The goats shall remain within a secure enclosure at all times. The goats may be moved to a separate holding pen at night, which shall be located the maximum distance practicable from residences. In addition to the requirements set forth in section 44.0307(c), droppings in the holding pen shall be removed and properly disposed of daily.

- (H) Brush Management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the clearing would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.
  - (I) The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished. No later than 5 business days from the date of the removal of the goats, the owner of the property browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal of the removal of the goats.
- (3) Any use of goats by the City of San Diego or its permittee for the purpose of performing brush management on City-owned property in non-agricultural zones in accordance with the Land Development Code section 142.0412, Brush Management, or for weed abatement, are subject to the requirements set forth in section 44.0307(b) (2) (A) – (I) and 44.0307(c).
- (c) Property owners shall remove and properly dispose of droppings from cattle, goats or sheep as needed to prevent accumulation, to avoid a health

or sanitation problem, or the breeding of flies, and to prevent discharge into the *Storm Water Conveyance System*, as defined in section 43.0302.

Section 2. That Chapter 5, Article 5, Division 1 of the San Diego Municipal Code is amended by amending Section 55.0101 to read as follows:

**§55.0101      Adoption of the California Fire Code (2001 Edition) Purpose and Intent, and Administrative Provisions**

- (a)      [No change.]
- (b)      San Diego Fire Code. The document known as the San Diego Fire Code consists of the following documents:
  - (1) and (2)      [No change.]
  - (3)      Sections 55.0101 through 55.9105 of Chapter V, Article 5, of the San Diego Municipal Code.
  - (4)      [No change.]
- (c)      Relationship of San Diego Municipal Code section numbers to C.F.C. (2001 Edition) section numbers. Sections within the C.F.C. (2001 Edition) retain those same section numbers when referred to within the text of the San Diego Municipal Code. Thus, Section 901 of the C.F.C. (2001 Edition) will be cited as “C.F.C. 901 (2001 Edition)” within the text of the San Diego Municipal Code.

Where a section of the C.F.C. (2001 Edition) is adopted with changes, it is promulgated within the Municipal Code by using a numbering system to reflect both the Municipal Code numbering system and the C.F.C. (2001

Edition) numbering system. For example, section 901 of the C.F.C. (2001 Edition) is adopted with changes in San Diego Municipal Code section 55.0901. The first two digits to the left of the first decimal point are the chapter and article number of the San Diego Municipal Code. The two digits to the right of the first decimal point represent the Municipal Code's division number. The last four digits reflect the numbering system of the C.F.C. (2001 Edition). A zero (0) after the decimal point is a filler to accommodate the San Diego Municipal Code numbering system and is added when the section number in C.F.C. (2001 Edition) is less than four digits.

The Municipal Code numbering system reflects the numbering system of the C.F.C. (2001 Edition) excluding the chapter and article numbers to the left of the decimal point and when appropriate, the utilization of a filler zero (0). Consequently, with these modifications, the numbering in the San Diego Municipal Code sections 55.0101 through 55.9105 corresponds with the numbering system change in the C.F.C. (2001 Edition).

(d) through (h) [No change.]

Section 3. That Chapter 5, Article 5, of the San Diego Municipal Code is amended by repealing Division 92.

Section 4. That Chapter 14, Article 2, Division 3, of the San Diego Municipal Code is amended by amending Section 142.0360, to read as follows:

**§142.0360 Electrically Charged and Sharp-Pointed Fence Regulations**

(a) Electrically Charged *Fences*

- (1) Electrically charged *fences* are permitted in the IH and IS zones and for agricultural uses in agricultural zones, if the *fence* is at least 600 feet from a residential zone, and for temporary control of goats used for brush management in any non-agricultural zones in compliance with the Land Development Code section 142.0412, Brush Management, and section 44.0307.

(2) – (3) [No change.]

(b) [No change.]

Section 5. That Chapter 14, Article 2, Division 4 of the San Diego Municipal Code is amended by amending Sections 142.0402, 142.0403 and 142.0412 to read as follows:

**§142.0402 When Landscape Regulations Apply**

- (a) [No change.]
- (b) [No change to first paragraph.]

**Table 142-04A**

Landscape Regulations Applicability

Type of <i>Development</i> Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1 - 8 [No change.]				

Type of <i>Development Proposal</i>	Applicable Regulations	Required Permit Type/ Decision Process
9. All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure.		No permit required by this division if work is performed in accordance with applicable regulations
10. Undeveloped public or private <i>premises</i> , within 100 feet of a <i>structure</i> , that contain native or naturalized vegetation or <i>environmentally sensitive lands</i>	142.0403, 142.0412, and 142.0413	No permit required by this division if work is performed in accordance with applicable regulations
11. [No change.]		

#### **§142.0403 General Planting and Irrigation Requirements**

[No change to first paragraph.]

(a) [No change.]

(b) Plant Material Requirements

(1) through (9) [No changes.]

(10) Trees required by this division shall be maintained so that all branches over pedestrian walkways are 6 feet above the walkway *grade* and so that all branches over vehicular travel ways are 16 feet above the *grade* of the travel way.

(11) through (14) [No changes.]

(c) - (d) [No change.]

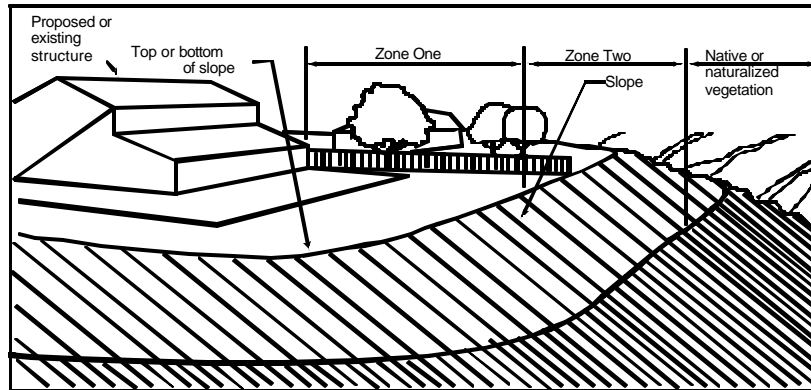
#### **§142.0412 Brush Management**



- (a) Brush management is required in all base zones on the following types of premises:
- (1) Publicly or privately owned *premises* that are within 100 feet of a *structure* and contain native or naturalized vegetation.
  - (2) Except for *wetlands, environmentally sensitive lands* that are within 100 feet of a *structure*, unless the Fire Chief deems brush management necessary in *wetlands* in accordance with Section 142.0412(i). Where brush management in *wetlands* is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).
- (b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around *structures* by providing an effective fire break between all *structures* and contiguous areas of native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called “Zone One” and “Zone Two” as shown in Diagram 142-04D.

**Diagram 142-04D**

Brush Management Zones



(1) [No change.]

(2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and shall consist of thinned, native or non-irrigated vegetation.

(c) Except as provided in Sections 142.0412(f) or 142.0412(i), the width of Zone One and Zone Two shall not exceed 100 feet and shall meet that shown in Table 142-04H. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.

**Table 142-04H**

**Brush Management Zone Width Requirements**

Criteria	Zone Widths	
Zone One Width	35 ft.	.
Zone Two Width	65 ft.	.

- (d) Brush management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the thinning would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.
- (e) Where Zone One width is required adjacent to the *MHPA* or within the Coastal Overlay Zone, any of the following modifications to development regulations of the Land Development Code or standards in the Land Development Manual are permitted to accommodate the increase in width:
  - (1) through (3) [No changes.]
- (f) The Zone Two width may be decreased by 1 ½ feet for each 1 foot of increase in Zone One width up to a maximum reduction of 30 feet of Zone Two width .
- (g) Zone One Requirements
  - (1) The required Zone One width shall be provided between native or naturalized vegetation and any *structure* and shall be measured from the exterior of the *structure* to the vegetation.
  - (2) Zone One shall contain no habitable *structures*, *structures* that are directly attached to habitable *structures*, or other combustible construction that provides a means for transmitting fire to the

habitable *structures*. *Structures* such as *fences*, walls, palapas, play structures, and nonhabitable gazebos that are located within brush management Zone One shall be of noncombustible construction.

(3) through (7) [No changes.]

(h) Zone Two Requirements

- (1) The required Zone Two width shall be provided between Zone One and the undisturbed, native or naturalized vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.
- (2) [No change.]
- (3) Within Zone Two, 50 percent of the plants over 24 inches in height shall be reduced to a height of 6 inches. Non-native plants shall be reduced in height before native plants are reduced in height.
- (4) Within Zone Two, all plants remaining after 50 percent are reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual. Non-native plants shall be pruned before native plants are pruned.

- (5) The following standards shall be used where Zone Two is in an area previously *graded* as part of legal *development* activity and is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:
- (A) All new plant material for Zone Two shall be native non-irrigated, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.
- (B) New plants shall be low-growing with a maximum height at maturity of 24 inches. Single specimens of native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.
- (C) All new Zone Two plantings shall be irrigated temporarily until established to the satisfaction of the City Manager. Only low-flow, low-gallonage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall

not drift or flow into adjacent areas of native or naturalized vegetation. Temporary irrigation systems shall be removed upon approved establishment of the plantings. Permanent irrigation is not allowed in Zone Two.

(D) [No change.]

(6) Zone Two shall be maintained on a regular basis by pruning and thinning plants and controlling weeds.

(7) Except as provided in Section 142.0412(i), where the required Zone One width shown in Table 142-04H cannot be provided on *premises* with existing *structures*, the required Zone Two width shall be increased by one foot for each foot of required Zone One width that cannot be provided.

(i) [No change to the paragraph]

(1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and

(2) The modification to the requirements achieves an equivalent level of fire protection as provided by Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and

(3) The modification to the requirements is not detrimental to the public health, safety, and welfare of persons residing or working in the area.

(j) – (k) [No changes.]

(l) Brush management for existing *structures* shall be performed by the owner of the property that contains the native and naturalized vegetation. This requirement is independent of whether the *structure* being protected by brush management is owned by the property owner subject to these requirements or is on neighboring property.

Section 6. That Chapter 14, Article 3, Division 1 of the San Diego Municipal Code is amended by amending Section 143.0110 to read as follows:

**§143.0110** When Environmentally Sensitive Lands Regulations Apply

[No change to the paragraph]

(a) and (b) [No change]

(c) [No change to the paragraph]

(1) through (6) [No change]

(7) Except for brush management in *wetlands* in accordance with Section 142.0412(a)(3), Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

Section 7. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 8. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, except that the provisions of this ordinance amending Articles 2 and 3 of Chapter 14, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 9. That the City Manager be directed to forward to the California Coastal Commission the amendments required to be certified as Local Coastal Program amendments.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By \_\_\_\_\_  
Hilda Ramirez Mendoza  
Deputy City Attorney

[NOTE TO CITY CLERK: While awaiting California Coastal Commission certification of the amendments to sections 142.0360, 142.0402, 142.0403, 142.0412, and 143.0310, the corresponding regulations effective within the Coastal Overlay Zone have been renumbered to sections 132.0404, 132.0405, 132.0406, 132.0407, and 132.0408 respectively. Upon the unconditional certification of these provisions as a local coastal program amendment, sections 132.0404 through 132.0408, and the Editors Notes for sections 142.0360, 142.0402, 142.0403, 142.0412, and 143.0310 will be deleted.]

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Or.Dept: FireRescue  
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MMS: 395